

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:07-00020

MATTHEW COOK CASEY

MEMORANDUM OPINION AND ORDER

Pending before the court are the defense's motion to determine the competency of the defendant (Attachment to Doc. No. 98) and motion to seal the same (Doc. No. 98). In support of the motion to determine competency, counsel for defendant proffers an account of defendant's recent behavior indicating that he may be suffering from a mental disease or defect. Defense counsel also lists certain prescription medications the defendant is currently taking, which are medications typically used for the treatment of psychological or psychiatric disorders. The motion further states that defendant's probation officer is in agreement that a mental evaluation of defendant should be conducted prior to his sentencing. It further represents that counsel for the government does not object to such an evaluation.

Title 18 United States Code Section 4244 provides in pertinent part that

[a] defendant found guilty of an offense, or the attorney for the Government, may, within ten days after the defendant is found guilty, and prior to the time the defendant is sentenced, file a motion for a hearing on

the present mental condition of the defendant if the motion is supported by substantial information indicating that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order such a hearing on its own motion, if it is of the opinion that there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.

18 U.S.C. § 4244(a) (emphasis added). Additionally, the court may direct that a psychiatric or psychological examination of the defendant be conducted in advance of the hearing, and that a report of the examination be filed with the court pursuant to 18 U.S.C. § 4247(b) and (c). 18 U.S.C. § 4244(b).

Based on the information contained in defendant's motion and on the recommendation of the probation officer, the court is persuaded that reasonable cause exists to believe that defendant is presently suffering from a mental disease or defect, and that an evaluation and a hearing are necessary to determine his current state of mental health. Accordingly, the court **ORDERS** that a psychiatric or psychological examination of defendant be conducted, and that a report of that examination be filed with the court in accordance with 18 U.S.C. § 4247(b) and (c). The United States Marshal for this district is **DIRECTED** to arrange the examination forthwith, and to transport the defendant at the


appropriate time. Further, it is **RECOMMENDED** that the evaluation be conducted at FCI-Butner.

Defendant's sentencing hearing, previously scheduled for March 10, 2008, is hereby **CONTINUED** pending receipt of the report, at which time the court will schedule a hearing on the matter. Because the court has ordered the evaluation and hearing on its own motion, it finds defendant's motion to determine competency (Attachment to Doc. No. 98), which was filed more than ten days after defendant's November 13, 2007, guilty plea, to be **MOOT**. As the motion to determine competency contains sensitive medical information, the court **GRANTS** defendant's motion to seal (Doc. No. 98) **IN PART** and directs the Clerk to file the motion to determine competency under **SEAL**. To the extent the motion to seal requests that other documents be filed under seal, the motion is **DENIED IN PART**.

The Clerk is directed to mail copies of this Memorandum Opinion and Order to all counsel of record, the Probation Office of this court, and the United States Marshal for the Southern District of West Virginia.

It is **SO ORDERED** this 18th day of January, 2008.

ENTER:

A handwritten signature in black ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber
United States District Judge